

F1 AIR, LLC,

Plaintiff,

y.

KAIZEN AVIATION, INC.,

Defendant.

U.S. DISTRICT COURT  
DISTRICT OF MASS

Civil Action No. 05-11508-RCL

I, Patrick J. Gallagher, do hereby depose and state as follows:

2. On February 25, 2005, F1 Air and Kaizen Aviation, Inc. ("Kaizen Aviation") entered into a Promissory Note ("Note"), a true and correct copy of which is attached hereto as Exhibit A. The Note requires Kaizen Aviation to pay F1 Air the "sum of \$159,210.41 with interest from February 25, 2005, on the unpaid principal at the rate of 8.00% per annum."

3. On or about May 20, 2005, Mr. Howard Shafer, apparently on behalf of Kaizen Aviation, made one monthly payment in the amount of \$9,415.75 to F1 Air in Massachusetts. Since that date, Kaizen Aviation has not made any of the required payments under the Note to F1 Air.

4. Shortly thereafter, F1 Air commenced collection efforts. First, F1 Air retained Andrew M. Riolo, attorney at law, located in Charlotte, NC, to assist in with our

efforts to collect from Kaizen Aviation. Between May and August 2005, F1 Air paid Attorney Riolo the sum of \$24,122.00 as part of our efforts to collect from Kaizen Aviation amounts due under the Note.

5. Second, in July 2005, F1 Air retained the law firm of Hanify & King, P.C., in Boston, Massachusetts, to initiate a court action to collect from Kaizen Aviation the unpaid amounts due under the Note. Between July 2005 and August 2005, F1 Air incurred legal fees from Hanify & King in the amount of \$6,039.74 as part of our collection efforts. Hanify & King has notified me that between August 2005 and the present, it has incurred an additional \$480.40 on this matter, bringing its total legal fees to \$6,520.14.

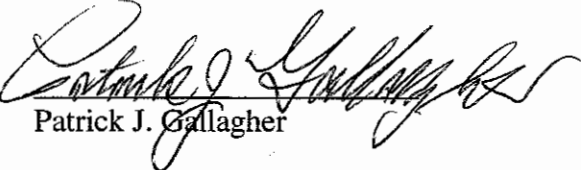
6. As of September 23, 2005, the total amount due and owing under the Note is \$156,943.58, calculated as follows: The original Note dated February 25, 2005 was in the principal amount of \$159,201.41 and called for interest at the rate of 8% annually. One payment of \$9,415.75 was made on May 20, 2005, 84 days after the Note was executed. Thus, the payment reflected accrued interest in the amount of \$2,931.18 (i.e.,  $\$159,210.41 \times .08/365 \times 84 \text{ days} = \$2,931.18$ ) and principal in the amount of \$6,484.57. This reduced the principal balance to \$152,725.84 (i.e.,  $159,210.41 - 6,484.57 = \$152,725.84$ ). In the 126 days between May 20, 2005 and September 23, 2005, the interest that has accrued on this principal balance is \$4,217.74 (i.e.,  $\$152,725.84 \times .08/365 \times 126 \text{ days} = \$4,217.74$ ). Accordingly, the total principal and interest due as of September 23, 2005 is \$156,943.58 (i.e.,  $\$152,725.84 + \$4,217.74 = \$156,943.58$ ).

7. Thus, as of September 23, 2005, the total amount due and owing under the Note in legal fees, principal, and interest is \$187,585.72.

8. The Note continues to accrue interest at the rate of \$33.474 per day.

[Intentionally left blank]

Signed under the pains and penalties of perjury this 26<sup>th</sup> day of September  
2005.

  
Patrick J. Gallagher

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